

- (1) Claimant was injured on June 10, 1996 when he slipped on a step while getting into an asphalt truck. Claimant was eventually referred to neurosurgeon Paul S. Stein, M.D., who performed a L5-S1 discectomy on November 18, 1996. By February 20, 1997, Dr. Stein opined that “overall, [claimant received] a very satisfactory result from surgery.”
- (2) Following a functional capacities assessment, Dr. Stein rated and released claimant with a 10 percent functional impairment to the body as a whole. Thereafter, at the request of his attorney, claimant was examined by Dr. Peter V. Bieri on June 13, 1997. His review of the medical records revealed that claimant was diagnosed with “a right side migrated disc

fragment" and right radiculopathy. Before surgery, claimant's right ankle reflex was absent. Claimant informed Dr. Bieri that the surgery was helpful in reducing, but not eliminating, the low back pain. Claimant also reported marked, but incomplete, relief of the right lower extremity numbness. There was no mention of left radiculopathy. Dr. Bieri concluded claimant had reached maximum medical improvement and assigned a 16 percent whole person impairment. No future medical treatment was anticipated.

(3) Approximately January 1998 claimant began experiencing pain into his left leg. He denied any intervening accident or injury that precipitated these symptoms. Since his release from treatment, claimant worked approximately 30 hours per week for Sykes, Inc. of Hays, Kansas, in sedentary work from August through December 1997. Claimant also attended college and worked part-time as a bartender and a clerk.

#### **CONCLUSIONS OF LAW**

Claimant attributes his current left-sided symptoms to his accident while working for respondent. He presents no medical evidence attributing those new symptoms to that work-related injury. Conversely, there is no evidence refuting such a causal connection, nor is there any evidence of an intervening accident or injury.

Because of claimant's history of ongoing low back symptoms and, to a lesser extent, right-sided radicular symptoms, the Appeals Board finds that claimant has minimally carried his burden of proving his entitlement to additional medical benefits. A recent medical opinion connecting the left-sided radicular symptoms to the accident or surgery would have been preferred. Hopefully, Dr. Stein will address this question of causation as a part of his follow-up examination. Based upon the record compiled to date, the ALJ's award of preliminary benefits should be affirmed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the June 12, 1998, Order by Administrative Law Judge Bruce E. Moore should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September 1998.

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BOARD MEMBER

c: Don C. Staab, Hays, KS  
Jeff S. Bloskey, Overland Park, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director